

IN THE SUPREME COURT OF THE STATE OF DELAWARE

RUDY G. SPADE,¹

Respondent Below,
Appellant,

v.

CHANDRA A. FEENEY,

Petitioner Below,
Appellee.

§

§ No. 188, 2021

§

§ Court Below—Family Court
§ of the State of Delaware

§

§ File No. S18-02819

§ Petition No. 18-31589

§

§

§

Submitted: July 13, 2021

Decided: July 21, 2021

Before **SEITZ**, Chief Justice; **VALIHURA** and **VAUGHN**, Justices.

ORDER

After consideration of the notice to show cause and the response, it appears to the Court that:

(1) On June 10, 2021, the respondent below, Rudy G. Spade, filed this appeal from a Family Court order, dated December 14, 2020, awarding alimony to the petitioner below, Chandra A. Feeney, and a Family Court order, dated May 12, 2021, denying multiple motions, including Spade’s motion to alter or amend the judgment. On July 1, 2021, Feeney’s counsel notified this Court that there was a pending application for attorney fees in the Family Court. The Senior Court Clerk

¹ The Court previously assigned pseudonyms to the parties under Supreme Court Rule 7(d).

issued a notice directing Spade to show cause why this appeal should not be dismissed as interlocutory. In his response to the notice to show cause, Spade agrees that the appeal should be dismissed as long as he may file a new appeal when the Family Court resolves the pending fee application.

(2) After careful consideration of the response to the notice to show cause, we conclude that this appeal must be dismissed as interlocutory. Absent compliance with Supreme Court Rule 42, this Court is limited to the review of a trial court's final judgment.² An order is deemed final and appealable if the trial court has declared its intention that the order be the court's final act in disposing of all justiciable matters within its jurisdiction.³ A judgment is not final and appealable when there is an outstanding application for attorney fees as there is here.⁴

NOW, THEREFORE, IT IS ORDERED, under Supreme Court Rule 29(b), that this appeal is DISMISSED. The filing fee paid by Spade shall be applied to any future appeal he files from a final order entered in this case.

BY THE COURT:

/s/ Karen L. Valihura
Justice

² *Julian v. State*, 440 A.2d 990, 991 (Del. 1982).

³ *J.I. Kislak Mortg. Corp. v. William Matthews, Builder, Inc.*, 303 A.2d 648, 650 (Del. 1973).

⁴ *In re Rural Metro Corp. S'holders Litig.*, 2014 WL 7010818, at *1 (Del. Dec. 2, 2014); *Emerald Partners v. Berlin*, 811 A.2d 788, 790–91 (Del. 2001).